

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ALBERT PATTERSON, d/b/a WORLD
WRESTLING ASSOCIATION,
SUPERSTARS OF WRESTLING, INC.,
and d/b/a W.W.A. SUPERSTARS,

Plaintiff,

v

TNA ENTERTAINMENT, LLC,

Defendant.

Case No. 04-C-0192

MAGISTRATE JUDGE
WILLIAM E. CALLAHAN

AFFIDAVIT OF ANDREW BARTON

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(616) 632-8000

STATE OF TENNESSEE)
) ss.
COUNTY OF _____)

NOW COMES Andrew Barton, being first duly sworn, and states as follows:

1. I am the Executive Vice President of Trifecta Entertainment and I make this Affidavit of my own knowledge and belief.

2. TNA Entertainment is an entertainment company which promotes live wrestling events and markets recordings of those events nationwide and internationally via television, pay-per-view, on DVDs, and on the Internet. TNA was formed in 2002 and first began promoting its wrestling events in mid to late 2002.

3. Trifecta Entertainment is a marketing company which promotes TNA Entertainment's wrestling events, including the creation and distribution of marketing kits regarding the wrestling events, and licensing the distribution and display of these wrestling events to third parties. Trifecta has provided these services to TNA Entertainment since 2002.

4. Trifecta Entertainment's use of the word "superstars" in materials promoting TNA Entertainment's events was done without knowledge of any claim that the word "superstars" was being used by, or claimed as a trademark by, Albert Patterson, World Wrestling Association, Superstars of Wrestling, Inc., or WWA Superstars (collectively, "Patterson").

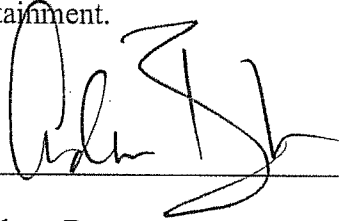
5. In using the word "superstars," Trifecta did not intend to trade upon Patterson's goodwill or otherwise create any confusion between TNA Entertainment's wrestling events and Patterson's wrestling events.

6. Trifecta has used the word "superstars" because it believed and still believes that the word describes the wrestlers participating in the wrestling events, conveying that these wrestlers are widely acclaimed stars having great popular appeal.

7. Trifecta never intended that the mere use of the word "superstars" alone in TNA advertisements indicated these events originated with TNA Entertainment, and did not use the word "superstars" as a trademark of TNA Entertainment. Rather, the producer/promoter of the advertised event was conveyed in TNA's advertisements by the prominent use of TNA's name and logo.

8. During my years of experience marketing wrestling events to consumers, I have seen that the consumers of these wrestling events are highly knowledgeable and sophisticated regarding professional wrestling programming and merchandise, that they easily distinguish between different promoters' wrestling-related products, and that they would not be confused as to the source of such products.

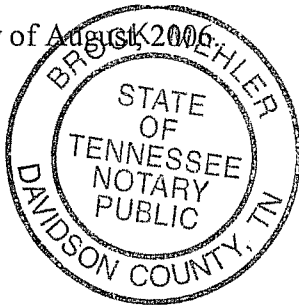
9. In reviewing the advertisements by or on behalf of TNA Entertainment which Patterson has identified as creating a likelihood of confusion, I am confident that wrestling consumers would not interpret these advertisements as promoting or advertising any product of Patterson as opposed to a product of TNA Entertainment.




Andrew Barton

Subscribed and sworn to before me, a Notary Public in and for said County, this 11th

day of August 2006





Notary Public, Davidson County, Tennessee
Acting in Davidson County, Tennessee
My commission expires: 11-14-09

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